

REMARKS

This amendment is responsive to the Final Office Action dated April 9, 2004. Claims 1 - 2 and 4 - 6 are pending in the application. In this amendment, Applicant has included new claims 7 and 8 and further defined the invention of claim 1 as a lens having a positive refractive power. Reconsideration of the Final Office Action is respectfully requested in light of these amendments and the following remarks.

Specification

At paragraph number 3, page 2, the Examiner has stated that it is not clear what kind of benefit the Applicant's are claiming. Applicant has claimed the benefit under 35 USC § 120 of an earlier filing date of Serial Number 09/805,226, now US Patent 6,545,821. The difference in the filing dates is two days (March 16, 2001 and March 14, 2001). There is clear copendency of these cases in the U.S. The benefit involved is the two days referred to above.

Should the Examiner have any further questions regarding this matter, is respectfully requested that he telephone the undersigned immediately.

Sugiura '872

The holographic optical elements (51) and (52) are disposed to correct aberrations. As holographic elements, they do not have a convergence function with respect to the illumination flux toward the disk's recording surface. On the other hand, the diffraction lens claimed by Applicant has a positive refractive power and, hence, a convergence function. The diffraction lens of Applicant's invention is disposed as a light converging objective element of the illumination luminous flux. This difference is quite clear by inspection of '872, which requires a separate lens (4) for convergence. Stated another way, the holographic elements of '872 necessarily do not have positive refractive powers and, therefore, they require the separate objective lens (4). Applicant, therefore, has completely defined over '872 by this amendment.

Claim 5

Applicant has reviewed the rejection of claim 5 and respectfully traverses the outstanding rejection. The Examiner has made reference to Sugiura. The Examiner relies upon column 9, line 55 - column 10, line 9 of Sugiura. This portion of the

Sugiura specification makes reference to Figure 8, which simply does not show or suggest the claimed luminous flux incident on the diffraction lens, which is a substantially parallel luminous flux. Instead, Figure 8 shows at the left-hand side of lenses (51) and (52) point sources LD1 and LD2, which are necessarily divergent. Still further, as the light passes from (51) and (52) it remains divergent, and is never converged until it strikes the converging lens (4). The discussion found at column 9, beginning at line 55 and continuing through column 10, line 10 never discusses parallel convergence or divergence. For this reason, the rejection of claim 5 is respectfully traversed.

New Claim 7

New claim 7 recites the optical paths as illustrated in Applicant's Figure 6. On the other hand, the optical paths of '872 are clearly not in substantial agreement as shown by the displacement of the laser LD1 and LD2 and the pads PD1 and PD2 (see Figure 1 or Figure 13).

New Claim 8

Claim 8 recites the focusing function of Applicant's lens. This is possible because Applicant's lens is a positive

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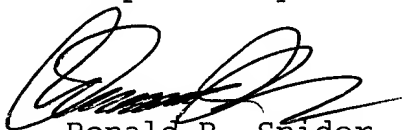
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refractive power lens, which converges. On the other hand, in '872, it is the movement of lens (4) (the converging lens), which accomplishes the focusing.

In view of the foregoing, it is respectfully submitted that the application is now in condition for allowance, and early action in accordance thereof is requested. In the event there is any reason why the application cannot be allowed in this current condition, it is respectfully requested that the Examiner contact the undersigned at the number listed below to resolve any problems by Interview or Examiner's Amendment.

Respectfully submitted,



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Date: June 18, 2004

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